

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1607 OF 2021

Priyanka Chandrakant Kharat ...Petitioner
Aged 32 years, Occu. Service
Residing at Ganesh Chawl, Near Pipe
line Bhim Nagar, Vartak Nagar, Thane
(W), Maharashtra – 400 608

Versus

1. The State of Maharashtra
Through Khadakpada Police Station,
Kalyan.
 2. Daya @ Dayanad Vasant Gaikwad
Aged 40 years, Occu. Municipal
Councillor, Milind Nagar, Near Buddha
Vihar, Gauripada Road, Kalyan (W),
Thane.
- ...Respondents

Mr. Anand V. Upadhyay, for the Petitioner.
Mr. Vinod K. Singh, for Respondent no.2.
Mr. Daya @ Dayanand Vasant Gaikwad, Respondent no.2
present through V.C. and interacted.
Mrs. M. H. Mhatre, APP for the State/Respondent no.1.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ**

**DATED: 29th JULY, 2021
(Through V.C.)**

ORAL JUDGMENT:- PER : N. J. JAMADAR, J.

1. Rule. Rule made returnable forthwith and, with the consent of the Counsels for the parties, heard finally.
2. This petition is preferred to quash and set aside Regular Criminal Case No.576 of 2019, pending on the file of the learned

Judicial Magistrate, First Class, 1st Court, Kalyan, arising out of FIR No.180 of 2019, registered at Khadakpada Police Station, for the offences punishable under Sections 384 and 500 of the Indian Penal Code ("the Penal Code"), at the instance of respondent no.2 Daya @ Dayanand Vasant Gaikwad – the first informant.

3. Mr. Upadhyay, the learned Counsel for the petitioner and Mr. Vinod Singh, the learned Counsel for respondent no.2, make a joint statement that the petitioner and respondent no.2 have amicably resolved the dispute. Respondent no.2 does not wish to prosecute the said prosecution. Respondent no.2 has sworn an affidavit giving no objection for the quashment of the said prosecution.

4. Respondent no.2 appeared before the Court through Video Conferencing. He is identified by Advocate Vinod Singh. Upon interaction, respondent no.2 stated that he has settled dispute with the petitioner on his own volition. There is no coercion and duress. He has voluntarily filed the affidavit.

5. Paragraphs 3 to 7 of the affidavit read as under:

"3. I say that I have settled the matter amicably with the petitioner and I do not want to proceed against the petitioner in the said case. I say that matter before the trial court is in initial stage and it may take substantial amount of time for disposal of the matter.

4. I say that the petitioner has got married and prolonging of matter may affect the life of the petitioner.

5. I say that in the light of the aforementioned circumstances, I do not have any objection if the FIR and chargesheet which is the subject matter of the present petition is quashed.

6. I say that aforementioned contents are made by me on my own free will and consent.

7. I say that I have no objection and I shall be highly grateful if this Hon'ble Court pleased to set aside the FIR No.180/2019 u/s 384, 500 IPC datd 03/05/2019 against the petitioner with Khadakpada Police Station, Kalyan and the chargesheet pending before Ld. Judicial Magistrate First Class, 1st Court at Kalyan bearing Case No.R.C.C. No.576/2019."

6. In view of the aforesaid submissions and statements in the affidavit, we have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. It seems that the petitioner and respondent no.2 had initially cordial relations and subsequently the relationship turned astray. The alleged offences appear to be of personal nature. Since respondent no.2 has resolved the dispute with the petitioner, it is very unlikely that the prosecution would end in conviction. Thus, the continuation of the prosecution would serve no fruitful purpose. It would put unnecessary burden on the criminal justice system. It would also cause prejudice to the petitioner and respondent no.2.

7. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *Gian Singh vs.*

*State of Punjab and another*¹, wherein the Supreme Court has observed as under;

“61..... the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offence arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that, as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (I) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.”

8. In our view, the principles enunciated in the aforesaid case apply with equal force to the facts of the instant case. Thus, we are persuaded to quash the prosecution in order to secure the ends of justice and prevent the abuse of the process of the Court.

9. Hence the following order:

: ORDER :

The petition stands allowed in terms of prayer Clause (a), subject to deposit of costs of Rs.10,000/- by the petitioner, in the below mentioned account of the Bar Council of Maharashtra and Goa Covid-19, within a period of one week.

Bank Name	:	Bank of India.
Branch Name	:	Main Branch, Fort, Mumbai.
A/c. Name	:	“Bar Council of Maharashtra and Goa Covid-19”
A/c. No.	:	000110110013597
IFSC Code	:	BKID0000001.

Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]